

## **IC 12-29-2**

### **Chapter 2. Community Mental Health Centers**

#### **IC 12-29-2-1**

##### **Application of chapter**

Sec. 1. This chapter applies only to the funding of a program of services for individuals with a mental illness that is designated as a community mental health center by the division of mental health and addiction in the division's approval of the program.

*As added by P.L.2-1992, SEC.23. Amended by P.L.215-2001, SEC.79; P.L.99-2007, SEC.150.*

#### **IC 12-29-2-1.2**

##### **County financial assistance for community mental health centers; purposes; appropriation**

Sec. 1.2. (a) The county executive of a county may authorize the furnishing of financial assistance for the purposes described in subsection (b) to a community mental health center that is located or will be located:

- (1) in the county;
- (2) anywhere in Indiana, if the community mental health center is organized to provide services to at least two (2) counties, including the county executive's county; or
- (3) in an adjacent state, if the center is organized to provide services to Indiana residents, including residents in the county executive's county.

If a community mental health center is organized to serve more than one (1) county, upon request of the county executive, each county fiscal body may appropriate money annually from the county's general fund to provide financial assistance for the community mental health center.

(b) Assistance authorized under this section shall be used for the following purposes:

- (1) Constructing a community mental health center.
- (2) Operating a community mental health center.

(c) The appropriation from a county authorized under subsection (a) may not exceed the product of the amount determined under section 2(b)(2) of this chapter for that year multiplied by one and five hundred four thousandths (1.504).

(d) For purposes of this subsection, "first calendar year" refers to the first calendar year after 2008 in which the county imposes an ad valorem property tax levy for the county general fund to provide financial assistance under this chapter. If a county did not provide financial assistance under this chapter in 2008, the county, for a following calendar year:

- (1) may propose a financial assistance budget; and
- (2) shall refer its proposed financial assistance budget for the first calendar year to the department of local government finance before the tax levy is advertised.

The ad valorem property tax levy to fund the budget for the first calendar year is subject to review and approval under IC 6-1.1-18.5-10.

*As added by P.L.78-2004, SEC.15. Amended by P.L.182-2009(ss), SEC.300.*

## **IC 12-29-2-2**

### **Funding of operation; amount of funding; calculation**

Sec. 2. (a) A county shall fund the operation of community mental health centers in the amount determined under subsection (b), unless a lower tax levy amount will be adequate to fulfill the county's financial obligations under this chapter in any of the following situations:

- (1) If the total population of the county is served by one (1) center.
- (2) If the total population of the county is served by more than one (1) center.
- (3) If the partial population of the county is served by one (1) center.
- (4) If the partial population of the county is served by more than one (1) center.

(b) The amount of funding under subsection (a) for taxes first due and payable in a calendar year is the following:

- (1) For 2004, the amount is the amount determined under STEP THREE of the following formula:

STEP ONE: Determine the amount that was levied within the county to comply with this section from property taxes first due and payable in 2002.

STEP TWO: Multiply the STEP ONE result by the county's assessed value growth quotient for the ensuing year 2003, as determined under IC 6-1.1-18.5-2.

STEP THREE: Multiply the STEP TWO result by the county's assessed value growth quotient for the ensuing year 2004, as determined under IC 6-1.1-18.5-2.

- (2) Except as provided in subsection (c), for 2005 and each year thereafter, the result equal to:

(A) the amount that was levied in the county to comply with this section from property taxes first due and payable in the calendar year immediately preceding the ensuing calendar year; multiplied by

(B) the county's assessed value growth quotient for the ensuing calendar year, as determined under IC 6-1.1-18.5-2.

(c) This subsection applies only to property taxes first due and payable after December 31, 2007. This subsection applies only to a county for which:

- (1) a county adjusted gross income tax rate is first imposed or is increased in a particular year under IC 6-3.5-1.1-24; or
- (2) a county option income tax rate is first imposed or is increased in a particular year under IC 6-3.5-6-30;

to provide property tax relief in the county. Notwithstanding any provision in this section or any other section of this chapter, for a county subject to this subsection, the county's maximum property tax levy under this section to fund the operation of community mental health centers for the ensuing calendar year is equal to the county's maximum property tax levy to fund the operation of community mental health centers for the current calendar year.

(d) Except as provided in subsection (h), the county shall pay to the division of mental health and addiction the part of the funding determined under subsection (b) that is appropriated solely for funding the operations of a community health center. The funding required under this section for operations of a community health center shall be paid by the county to the division of mental health and addiction. These funds shall be used solely for satisfying the non-federal share of medical assistance payments to community mental health centers serving the county for:

- (1) allowable administrative services; and
- (2) community mental health rehabilitation services.

All other funding appropriated for the purposes allowed under section 1.2(b)(1) of this chapter shall be paid by the county directly to the community mental health center semiannually at the times that the payments are made under subsection (e).

(e) The county shall appropriate and disburse the funds for operations semiannually not later than December 1 and June 1 in an amount equal to the amount determined under subsection (b) and requested in writing by the division of mental health and addiction. The total funding amount paid to the division of mental health and addiction for a county for each calendar year may not exceed the amount that is calculated in subsection (b) and set forth in writing by the division of mental health and addiction for the county. Funds paid to the division of mental health and addiction by the county shall be submitted by the county in a timely manner after receiving the written request from the division of mental health and addiction, to ensure current year compliance with the community mental health rehabilitation program and any administrative requirements of the program.

(f) The division of mental health and addiction shall ensure that the non-federal share of funding received from a county under this program is applied only for matching federal funds for the designated community mental health centers to the extent a center is eligible to receive county funding under IC 12-21-2-3(5)(D).

(g) The division of mental health and addiction:

- (1) shall first apply state funding to a community mental health center's non-federal share of funding under this program; and
- (2) may next apply county funding received under this section to any remaining non-federal share of funding for the community mental health center.

The division shall distribute any excess state funds that exceed the community mental health rehabilitation services non-federal share

applied to a community mental health center that is entitled to the excess state funds.

(h) The health and hospital corporation of Marion County created by IC 16-22-8-6 may make payments to the division for the operation of a community mental health center as described in this chapter.

*As added by P.L.2-1992, SEC.23. Amended by P.L.17-1995, SEC.12; P.L.6-1997, SEC.152; P.L.90-2002, SEC.366; P.L.170-2002, SEC.84; P.L.1-2004, SEC.54 and P.L.23-2004, SEC.56; P.L.78-2004, SEC.16; P.L.224-2007, SEC.102; P.L.123-2008, SEC.3; P.L.2-2014, SEC.74; P.L.153-2014, SEC.18.*

### **IC 12-29-2-3**

#### **Total or partial population of county served by one center; maximum appropriation; determination**

Sec. 3. In situations described in section 2(a)(1) or 2(a)(3) of this chapter, the county's maximum appropriation for part of the total operating budget of the center is determined as follows:

STEP ONE: Divide the total county population by the population of the county residing in the primary service area of the community mental health center that is certified by the division of mental health and addiction to serve the county.

STEP TWO: Multiply the amount determined in STEP ONE by the total operating budget of the center after the operating budget of the center is reduced by the following anticipated amounts:

- (A) Gifts, except bequests.
- (B) Merchandise.
- (C) Fees.
- (D) Federal grants for direct service, except research and demonstration grants.

*As added by P.L.2-1992, SEC.23. Amended by P.L.79-2002, SEC.2.*

### **IC 12-29-2-4**

#### **Total or partial population of county served by more than one center; maximum appropriation; allotment to each center; determination**

Sec. 4. (a) Except as provided in subsection (b), in situations described in section 2(a)(2) or 2(a)(4) of this chapter, the county's maximum appropriation for part of the total operating budget of the centers is determined in the same manner as in situations described in section 2(a)(1) or 2(a)(3) of this chapter.

(b) The amount derived from the calculation under subsection (a) represents the combined maximum appropriation to all centers serving the particular county. Except for a county containing a consolidated city, the allotment to each center shall be determined in the following manner:

- (1) To determine the allotment to each center serving the total population of the county under the situation described in section 2(a)(2) of this chapter, the amount actually appropriated shall be

apportioned according to the proportion of the county's population residing in the primary service area of each center, which is certified by the division of mental health and addiction to serve the county, to the total population of the county.

(2) To determine the allotment to each center in the situation described in section 2(a)(4) of this chapter, the amount actually appropriated shall be apportioned according to the proportion of the county's population residing in the primary service area of each center, which is certified by the division of mental health and addiction to serve the county, to the population of the county served by all centers.

*As added by P.L.2-1992, SEC.23. Amended by P.L.79-2002, SEC.3.*

#### **IC 12-29-2-5**

##### **Maximum appropriation determined as county's absolute proportional share of each center's budget; calculations**

Sec. 5. (a) The maximum appropriation determined under section 3 or 4 of this chapter represents the county's absolute proportional share of each center's total operating budget.

(b) If the proportional share is less than the amount of property taxes raised under the tax rate required under section 2 of this chapter, the county shall appropriate only the maximum appropriation amount.

(c) If the proportional share is more than the amount of property taxes raised under the tax rate required under section 2 of this chapter, the county:

(1) shall appropriate that amount; and

(2) may appropriate an additional amount up to an amount that would equal the amount of property taxes raised by a tax rate of three and one-third cents (\$0.03 1/3).

*As added by P.L.2-1992, SEC.23. Amended by P.L.40-1994, SEC.63; P.L.1-2004, SEC.55 and P.L.23-2004, SEC.57.*

#### **IC 12-29-2-6**

##### **Repealed**

*(As added by P.L.2-1992, SEC.23. Repealed by P.L.78-2004, SEC.25.)*

#### **IC 12-29-2-7**

##### **Appropriation**

Sec. 7. The county fiscal body shall appropriate and approve the money necessary to carry out this chapter.

*As added by P.L.2-1992, SEC.23.*

#### **IC 12-29-2-8**

##### **Repealed**

*(Repealed by P.L.37-1998, SEC.1.)*

#### **IC 12-29-2-9**

**Repealed**

*(Repealed by P.L.37-1998, SEC.1.)*

**IC 12-29-2-10**

**Repealed**

*(Repealed by P.L.37-1998, SEC.1.)*

**IC 12-29-2-11**

**Repealed**

*(Repealed by P.L.37-1998, SEC.1.)*

**IC 12-29-2-12**

**Repealed**

*(Repealed by P.L.37-1998, SEC.1.)*

**IC 12-29-2-13**

**Lake County; additional funding of centers; property tax levy increase; requirements**

Sec. 13. (a) This section applies to Lake County.

(b) In addition to any other appropriation under this article, the county annually may fund each center serving the county from the county's general fund in an amount not exceeding the following:

(1) For 2004, the product of the amount determined under section 2(b)(1) of this chapter multiplied by seven hundred fifty-two thousandths (0.752).

(2) For 2005 and each year thereafter, the product of the amount determined under section 2(b)(2) of this chapter for that year multiplied by seven hundred fifty-two thousandths (0.752).

(c) The receipts from the tax levied under this section shall be used for the leasing, purchasing, constructing, or operating of facilities for community based residential programs (as defined in IC 12-7-2-40) for individuals with a mental illness

(d) Money appropriated under this section must be:

(1) budgeted under IC 6-1.1-17; and

(2) included in the center's budget submitted to the division of mental health and addiction.

(e) Permission for a levy increase in excess of the levy limitations may be ordered under IC 6-1.1-18.5-15 only if the levy increase is approved by the division of mental health and addiction for a community mental health center.

*As added by P.L.2-1992, SEC.23. Amended by P.L.40-1994, SEC.64; P.L.6-1995, SEC.36; P.L.6-1997, SEC.153; P.L.215-2001, SEC.80; P.L.78-2004, SEC.17; P.L.99-2007, SEC.151; P.L.143-2011, SEC.30.*

**IC 12-29-2-14**

**Operation by uncertified entity; investigations; penalties**

Sec. 14. (a) An entity may not:

(1) hold itself out to be a community mental health center; or

(2) use the term "community mental health center";  
unless the entity is certified by the division of mental health and addiction.

(b) The division of mental health and addiction shall investigate a report that an entity is operating as a community mental health center without the approval of the division of mental health and addiction and report the division's findings to the attorney general.

(c) Upon receiving a report made under subsection (b), the attorney general may do the following:

(1) Seek the issuance of a search warrant to assist in the investigation.

(2) File an action for injunctive relief to stop the operation of the entity that is the subject of the report if there is reasonable cause to believe that the entity is operating without the required approval of the division of mental health and addiction.

(3) File an action for injunctive relief to stop the entity that is the subject of the report from using the term "community mental health center".

(4) Seek in a civil action a civil penalty of not more than one hundred dollars (\$100) a day for each day an entity is operating without the required approval of the division of mental health and addiction.

(d) An opportunity for an informal meeting with the division of mental health and addiction must be provided after the injunctive relief is ordered.

(e) The civil penalties collected under this section must be deposited in the mental health centers fund (IC 6-7-1-32.1).

*As added by P.L.111-1997, SEC.6. Amended by P.L.215-2001, SEC.81.*

## **IC 12-29-2-15**

### **County fiscal body member of the board**

Sec. 15. (a) A community mental health center that:

(1) is certified by the division of mental health and addiction;  
and

(2) is not administered by a hospital licensed under IC 16-21-2;  
shall include a member of a county fiscal body, or a county fiscal body's designee, on the center's governing board. The member shall be selected by the county fiscal body of the county where the community mental health center maintains its corporate mailing address. The county fiscal body representative must reside in one (1) of the counties in the community mental health center's primary service area.

(b) A community mental health center that:

(1) is certified by the division of mental health and addiction;  
and

(2) is administered by a hospital licensed under IC 16-21-2;  
shall include a member of a county fiscal body, or a county fiscal body's designee, on the center's advisory board. The member shall be

selected by the county fiscal body of the county where the community mental health center maintains its corporate mailing address. The county fiscal body representative must reside in one (1) of the counties in the community mental health center's primary service area.

*As added by P.L. 79-2002, SEC.4. Amended by P.L. 123-2008, SEC.4.*

#### **IC 12-29-2-16**

##### **Annual report to county fiscal body**

Sec. 16. A community mental health center that is certified by the division of mental health and addiction shall provide an annual report to the fiscal body of each county located in the community mental health center's primary service area.

*As added by P.L. 79-2002, SEC.5. Amended by P.L. 123-2008, SEC.5.*

#### **IC 12-29-2-17**

##### **Issuing county bonds for construction, equipment, or improvement**

Sec. 17. (a) Bonds of a county may be issued for the construction and equipment or the improvement of a building to house a community mental health center.

(b) If services are provided to at least two (2) counties:

(1) bonds of the counties involved may be issued to pay the proportionate cost of the project in the proportion determined and agreed upon by the fiscal bodies of the counties involved; or

(2) bonds of one (1) county may be issued and the remaining counties may annually appropriate to the county issuing the bonds amounts to be applied to the payment of the bonds and interest on the bonds in the proportion agreed upon by the county fiscal bodies of the counties involved.

*As added by P.L. 78-2004, SEC.18.*

#### **IC 12-29-2-18**

##### **Application of all general statutes relating to issuance of bonds**

Sec. 18. All general Indiana statutes relating to the following apply to the issuance of county bonds under this chapter:

(1) The filing of a petition requesting the issuance of bonds.

(2) The giving of notice of the following:

(A) The filing of the petition requesting the issuance of the bonds.

(B) The determination to issue bonds.

(C) A hearing on the appropriation of the proceeds of the bonds.

(3) The right of taxpayers to appear and be heard on the proposed appropriation.

(4) The approval of the appropriation by the department of local government finance.

(5) The right of:

(A) taxpayers and voters to remonstrate against the issuance



of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or

(B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a).

*As added by P.L.78-2004, SEC.19. Amended by P.L.219-2007, SEC.97; P.L.146-2008, SEC.420.*

#### **IC 12-29-2-19**

##### **County property of building if bond issued; nonapplication of tax limitations**

Sec. 19. If bonds are issued under this chapter:

(1) the building that is constructed, equipped, or improved with proceeds of the bonds is:

(A) the property of the county issuing the bonds; or

(B) the joint property of the counties involved if the bonds are issued by at least two (2) counties; and

(2) the tax limitations in this chapter do not apply to the levy of taxes to pay the bonds and the interest on the bonds.

*As added by P.L.78-2004, SEC.20.*

#### **IC 12-29-2-20**

##### **Certification by county auditor; county payments; certification of federal financial participation eligibility**

Sec. 20. (a) The county payment for operations of a community mental health center shall be paid by the county treasurer to the division as described in section 2 of this chapter.

(b) To the extent that money is appropriated by a county for purposes allowed under section 1.2(b)(1) of this chapter or is no longer required or requested for programs under section 2 of this chapter, on the first Monday in October, the county auditor shall certify to:

(1) the division of mental health and addiction, for a community mental health center; and

(2) the president of the board of directors of each community mental health center;

the amount of money that will be provided to the community mental health center under this chapter.

(c) The county payment to the community mental health center shall be paid by the county treasurer to the treasurer of each community mental health center's board of directors in the following manner:

(1) One-half (1/2) of the county payment to the community mental health center shall be made on the second Monday in July.

(2) One-half (1/2) of the county payment to the community mental health center shall be made on the second Monday in December.

(d) A county making a payment under this section or from other county sources to a community mental health center that qualifies as

a community mental health center disproportionate share provider under IC 12-15-16-1 shall certify that the payment represents expenditures eligible for financial participation under 42 U.S.C. 1396b(w)(6)(A) and 42 CFR 433.51. The office shall assist a county in making this certification.

(e) Payments by the county fiscal body:

(1) must be in the amounts:

(A) determined by sections 2 through 5 of this chapter; and

(B) authorized by sections 1.2 and 13 of this chapter; and

(2) are in place of grants from agencies supported within the county solely by county tax money.

*As added by P.L.78-2004, SEC.21. Amended by P.L.123-2008, SEC.6.*